

EXHIBIT

TAKES

MSC, Inc.  
File No.: 03-1134

**TRANSCRIBED STATEMENT OF CARLOS AGUIAR**

This is Russell DuBois of Marine Safety Consultants, Inc. on October 6, 2003, in Fairhaven, MA in our offices.

Q. I'll need you to identify yourself for the statement, please.  
A. My name is Carlos A. Aguiar. I'm a fisherman on the F/V MY WAY.

Q. Is that AGUIAR?  
A. Correct.

Q. Are you 18 Bourne Street, New Bedford, MA?  
A. Correct.

Q. Date of birth [REDACTED]  
A. Correct.

Q. Social Security [REDACTED]  
A. Correct.

Q. We have your permission to record this, correct?  
A. Yes.

Q. And you're here with your wife?  
A. Yes.

Q. And your fourteen month old daughter?  
A. Yes.

Q. How long have you been with the F/V MY WAY?  
A. More than two years.

Q. It's a dragger?  
A. It's a dragger.

Q. Do you have experience in commercial fishing before that?  
A. Yes. I been fishing since 1976.

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Q. All in dragging operations?

A. Some scallop, some draggers. Last time, last year was on a dragger.

Q. How many crewmembers are on the F/V MY WAY?

A. Five.

Q. Do you have a specific position?

A. I'm a cook.

Q. Can you just tell me who the captain and crew are?

A. The captain, his name is John Cura, the engineer is Joe Lima. Joaquim Machado, and Jose Abreu. Is the mate. And myself. Carl Aguiar.

Q. Mr. Cura and Mr. Lima both own it? They're the owners?

A. Yeah. Mr. Cura is the captain.

Q. Could you describe to me when you left and what the circumstances were?

A. We left on a Thursday. Went out fishing on a Thursday, the weather was good. We out fishing.

Q. Was it just this past Thursday?

A. Yes. And so we stayed and we fished that day. Friday and Saturday morning. Around 10 o'clock. 10:30. Something like that. When they were haul back, I was trying to put the chain on the door, the chain is hefty and the door slipped down back to the water. And that's when I had caught, with my finger in the chain. I set the chain.

Q. Okay, so your right ring finger, right first finger?

A. Yes.

Q. The right first finger got caught in the safety chain?

A. Yes. Safety chain the door. The one you hold on to the door. So the door slipped down to the water and it got caught.

Q. So the chain quickly became fully taut and extended and that's when your finger got caught in it?

A. No. I put the chain over the door so I could put the safety on. When I was starting to put the safety on, on the door, that's when the door went down again and it cut my finger.

Q. Okay, so the chain cut the finger?

A. No.

Q. Oh, the door did?

A. The safety, the hook that goes inside the chain - the safety.

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Q. Oh, I see, it's called the safety.

A. The safety. It's like a knot. That's where it got caught. When the door went down.

Q. That door is something that you have to use and all the safety and the chain - these are all things you have to use multiple times per trip, right?

A. Yeah. We have to use that all the time, when the door comes up, we have to put the safety chain so it won't hurt nobody. That's we tried to put the chain over the door, to hook up, so the door won't go anywhere.

Q. Right.

A. And that day, that moment, it's one guy runs the winch, the other one puts that chain on the door. So the other guy runs on the winch, that was not his fault. I was trying to put the chain on the door. That's my job, to put the chain on the door. That's when the door went down here.

Q. So was there any reason that you know of why the door slipped down?

A. No. We don't know. It happens. It's not very common, but it happens. When the boat is hang up on the bottom, something like that, when you're hauling back, it happens. I been doing that job for many times and never having it happens, you know? It was that day. Happen.

Q. Was there a lot of rough sea? Was there a rough sea?

A. No, no, was a good weather, when we come back.

Q. So you said it wasn't related to the guy running the winch? There was no problem with him?

A. No, no, no. There was no problem with him. It happens.

Q. Who was that running the winch?

A. Joe Lima.

Q. Who else was up at the time?

A. Uh, there was Joe Machado.

Q. So the three of you guys?

A. Yeah. And the captain in the wheelhouse.

Q. Oh, okay. One guy sleeps?

A. Yeah.

Q. Who do you think witnessed it? Was the guy at the guy watching it when it happened?

A. Everybody watched. The captain -

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Q. Everybody saw it?

A. The captain, the guys who runs on the winch. I think that's all of them see it when the door slip out.

Q. Yeah. And so you immediately, you felt pain, you passed out or anything?

A. No, I didn't pass out, so, I went inside, took my glove off, when I see was a deep gash on my finger, when I tried to clean it up but that's when I see the bone. And the captain, like two band aids around so I can close the gash and then we call the Coast Guard. We explain everything to him. And the Coast Guard come to the boat and take me to the Rhode Island hospital.

Q. You mentioned that you left on Thursday?

A. Yes.

Q. Did this occur on Friday or Saturday morning?

A. Saturday morning.

Q. Did you stay overnight in Rhode Island Hospital?

A. No. I came home.

Q. You came home Saturday?

A. Yeah. Saturday afternoon.

Q. So somebody operated on you?

A. Yes.

W. They had to fix the bone, inside, to take all of this, that I witnessed. They had to fix the bone because infection was very bad.

Q. So you had a fracture?

A. Yes.

W. Yes. The fracture was the bone, this part, that's right here. Between here's.

A. Wasn't break like this.

W. The bone broke. From the side to side. So this part went up, this part went down, so it was pretty bad, so they cleared it right there in the emergency room, one of those special rooms they have. And they kept, they open and they tried to put that breakage, the breakage right, they try to put the breakage -

A. On each side.

W. There. To fix it so it was going to heal the right way.

Q. Put it back in place?

W. Yes. And they was successful doing that. I think we have to go to the operating room, actually the operating room, because if there wasn't, because the fracture was so bad,

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because they were afraid they could not put it together at one time. They have to use another surgery. But, they took x-rays. They saw that they did a good job so he didn't have to go to a second man. It was a real operating room, okay? And they put a big splint to hold it, to hold the bone in place, so he heals and they told him about four weeks. But he has to be seen by a doctor. As a matter of fact, have to call for an appointment for this Wednesday.

Q. Okay.

W. It's a follow up, it's very important that he see the hand doctor.

Q. The same surgeon?

W. The same, or whatever team he work with. Whoever, you know, who ever doctor follows up.

Q. Back to Providence?

W. Yes. They'd rather have people go back.

A. The doctor, what operated on me, he says for me to see me to see my doctor, Dr. Sawyer, in New Bedford.

Q. Okay. Dr. Sawyer?

A. Dr. Sawyer.

W. It's done with him, only because he's on Comadine. He has to be followed up by the family doctor.

Q. Yeah, right. Right. Who's the doctor in Rhode Island that you were treated by?

W. The doctor who operated on him was Dr. Jennifer Reed.

Q. At this time, it seems that it was set back into place pretty well?

W. Yes.

A. Yeah, that's what he says.

W. They x-ray after the procedure and that's what they said. That's what the x-ray showed, that they did, they were successful in putting the bone together as far as they're concerned. They don't mean in the future, that's, you know, that's the way it stays. That's the way they explained it to me. But if you call the doctor, they explain it better.

Q. Have you ever had an injury on a fishing boat before?

A. No.

Q. And how about to your hand? Have you ever had a problem with your right hand?

A. I had a head injury on the top of my head once, but I went to the insurance.

Q. But that had nothing to do with your hands or your fingers?

A. No, no, no.

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Q. Everything was fine?

A. Yeah.

Q. Just to summarize, again, the injury and the circumstances surrounding your injury - was there anything that we did not talk about that may have contributed to the injury as far as maybe the door and the chain and the equipment wasn't working properly?

A. The equipment was working properly all the time. This - it happens, once in a while, it happens. The door slipped down. It's nothing we can do. When I put the chain.

Q. One person does it all the time, right? It's not like -

A. It's two persons, one on the winch, and one on the door.

Q. But not two people on the door?

A. No.

Q. One person can do it?

A. Yeah.

Q. There was no slip? You didn't slip, your feet didn't slip or anything like that?

A. No, no, no. That's - when I tried to put the chain on the door, that's when the door went down, I was trying to put the safety hook on the door. One time I was trying the safety on the door, that's when the door went down, that's when it got caught.

Q. Do you have anything further to add to your statement? Anything that you would like to add?

A. No, that's what happened. That's what happened, I can't anything else more. That's what happened.

Q. Once, again, just confirm that we had your permission to record this, right?

A. Yes, you had my permission.

Q. Let's have you state your name again to end the recording.

A. My name is Carlos Aguiar.

Q. Okay, thank you.

A. Thank you.